Town of Ketchikan v. Zimmerman (1911) 4 Alaska 336. Constant increase in population necessitates the expansion of the city's business powers beyond its limits in order to provide for parks and other recreation centers which are no longer possible within the city limits. The instant case does not seem to be in keeping with the social development of progressive municipalities.

PARTNERSHIP—COVENANT TO REFRAIN FROM BUSINESS—ABROGATION BY PARTNERSHIP AGREEMENT.—The defendant contracted in writing with the plaintiff to refrain from writing hail insurance in Childress county. Subsequently, the plaintiff and the defendant orally agreed to form a partnership to write hail insurance in Childress county. After the conclusion of this partnership, the defendant continued to write hail insurance in the county, thus competing with the plaintiff. This suit was then instituted by the plaintiff to enjoin him from violating the first contract. *Held,* that the injunction should be denied, because the subsequent partnership agreement abrogated the earlier contract. *McLeod v. Schluter* (1920, Tex. Com. App.) 221 S. W. 961.

There is a square conflict of authority upon the question involved in the instant case. Manifestly, refraining from competition in the same line of business is not a part of the good will of a partnership. Burdick, *Law of Partnership* (2d ed. 1906) 372. In the instant case the court argued that under the first contract it was the defendant's duty not to write hail insurance in Childress county; but, conceding that the object was to prevent competition between the parties and that no competition resulted from the formation of the subsequent partnership, it was the defendant's duty as a partner to write hail insurance in that county. Therefore the duty imposed by the subsequent partnership agreement was inconsistent with the duty imposed by the restrictive covenant and superseded it. *Norris v. Howard* (1875) 41 Iowa, 508; *Menefee v. Rankins* (1914) 158 Ky. 78, 164 S. W. 365. Other courts argue that the defendant's duty under the restrictive covenant is not to write hail insurance in Childress county in competition with the plaintiff; and that under the partnership agreement it is the duty of the defendant to write hail insurance in Childress county, not in competition, but in conjunction with the plaintiff. Therefore there is no inconsistency between the two contracts, and the negative covenant is not abrogated. *Scudder v. Kilfoil* (1898) 57 N. J. Eq. 171, 40 Atl. 602; *Faust v. Rohr* (1914) 166 N. C. 187, 81 S. E. 1096. This latter view was followed in the instant case in the lower court. *Schluter v. McLeod* (1917, Tex. Civ. App.) 199 S. W. 311. While this decision was here reversed, it seems more logical, and more in accord with business custom and the actual intentions of the parties. It is submitted that in the development of this new phase of the law, the latter view should be adopted.

PRACTICE—TRIALS—DISQUALIFICATION OF JUDGES FOR INTEREST IN CAUSE.—The defendant was indicted for extortion in his office as district attorney. At the inception of the prosecution he filed an affidavit alleging that the indictment had been improperly brought about by the trial judge in order to enhance his own candidacy in a prospective judgeship contest between the trial judge and himself, and that because of the judge's bias and personal interest in the cause he could not obtain a fair trial. For these reasons he demanded that the judge recuse himself. The trial judge dismissed the complaint as frivolous and held the defendant guilty of contempt of court for filing the same. The defendant appealed. Under a Louisiana statute a judge may be recused on the grounds of being interested in the cause, relationship within the fourth degree, or having performed any other judicial act or acts in the cause in court. *Held,* that the judge should recuse himself or appoint another judge to determine upon his recusation, since the grounds of the demand were not frivolous and

the complaint stated a case within the statute. *State v. Nunez* (1920, La.) 85 So. 52.

At common law a substantial and direct interest in the event of litigation or near relationship—generally within the fourth degree of consanguinity or affinity—were the only grounds for the disqualification of judges. *State v. Ham* (1910) 24 S. D. 639, 124 N. W. 955; *Ex parte Fairbanks Co.* (1912, M. D. Ala.) 194 Fed. 978. But by statute these grounds have been greatly enlarged upon. In some states a judge may even be disqualified on grounds of personal bias and prejudice if it be well established. *Powers v. Commonwealth* (1902) 114 Ky. 237, 70 S. W. 644; *Ingles v. McMillan* (1911) 5 Okla. Cr. App. 130, 113 Pac. 998. As to the sufficiency and nature of the disqualifying interest there is much diversity of opinion. It is often held that the interest must be a pecuniary or proprietary one and capable of clear proof. *Northampton v. Smith* (1846, Mass.) 11 Metc. 390; *Elliot v. Hipp* (1910) 134 Ga. 844, 68 S. E. 736. But the slightest pecuniary or proprietary interest will be sufficient. *Moses v. Julian* (1863) 45 N. H. 52; *Findley v. Smith* (1896) 42 W. Va. 299, 26 S. E. 370. Nor will the court inquire into the extent of the interest or its effect upon the judge's ruling. *Lindsay-Strathmore v. Superior Court* (1920, Calif.) 187 Pac. 1056. But it is well settled, and in many states specifically provided by statute, that a judge's mere interest as a citizen and taxpayer in a community which is a party to or interested in an action before him is not such an interest in the cause as to disqualify him from sitting. *Moses v. Julian, supra;* 23 Cyc. 578. Other jurisdictions, even in the absence of statutory provision for disqualification on the grounds of bias or prejudice, have held that "any interest the probable and natural tendency of which is to create a bias in the mind of the judge for or against a party to a suit" is sufficient to disqualify him. *Bryce v. Burke* (1911) 172 Ala. 219, 55 So. 635. The principal case might be sustained upon this premise, as the Louisiana statute apparently does not include such a remote interest as bias and prejudice, in its grounds for the recusation of judges. The unusual circumstances of the case perhaps justify the liberal construction of the statute invoked to sustain it.

PROPERTY—DEEDS—RECITAL OF PURPOSE—DISTINCTION BETWEEN ABSOLUTE FEE, CONDITIONAL FEE, AND EASEMENT.—The grantor conveyed to the city of Los Angeles a strip of land dividing his property. The deed contained the usual granting clause for a conveyance in fee, and the habendum clause which was limited by a recital that the purpose of the conveyance was for a public road. The road having been vacated by ordinance, the grantor brought an action of ejectment to recover possession. *Held,* that the deed conveyed an absolute fee with a restrictive covenant. *Cooper v. Selig* (1920, Calif. App.) 191 Pac. 983.

The instant case follows the generally adopted rule of construction that a mere recital of purpose will not operate to limit a grant to a conditional fee or to an easement. *Fitzgerald v. Modoc County* (1913) 164 Calif. 493, 129 Pac. 794; *Bald v. Nuernberger* (1915) 267 Ill. 616, 108 N. E. 724; Ann. Cas. 1916 B, 606, note; Devlin, *Deeds* (3d ed. 1911) sec. 970, 970 b. This is universally applied where the grant is between private individuals and the grantor expects no special benefit from the user. *Polebitzke v. John Week Lumber Co.* (1914) 157 Wis. 377, 147 N. W. 703. Likewise it is so held where the conveyance is for civic purposes and the grantor is to benefit only as a member of the community. *Thompson v. Hart* (1909) 133 Ga. 540, 66 S. E. 270; *Brady v. Gregory* (1912) 49 Ind. App. 355, 97 N. E. 452. When, however, the purpose is specifically to benefit the grantor, a few courts have adopted a more liberal rule, notably in conveyances made for the purposes of support. *Huffman v. Rickets* (1916) 60 Ind. App. 526, 111 N. E. 322. And this rule has been extended to cases where equity will not grant specific performance and the remedy at law is inadequate. *Seaboard Air Line Ry. v. Anniston Mfg. Co.* (1914) 186 Ala. 264, 65 So. 187; *Forgeus v. Santa Cruz County*